IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 18080 of 2006(B)

PETITIONER:

P. SHAMSUDEEN, AGED 41 YEARS,
ASSISTANT EXECUTIVE ENGINEER, P.H.SUB DIVISION,
KONDOTTY, MALAPPURAM DISTRICT.

BY ADV. SRI.M.R.GOPALAKRISHNAN NAIR

RESPONDENTS:

THE KERALA WATER AUTHORITY,
REPRESENTED BY THE MANAGING DIRECTOR,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.JOY GEORGE, SC, KWA
SRI.C.UNNIKRISHNAN, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18080/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT DT. 13.8.98 IN OP. NO.16650/94.

EXT.P2:- COPY OF THE ORDER NO.KWA/E4/JB/15149/98 DT. 27.10.99 ISSUED BY THE RESPONDENT.

EXT.P3:- COPY OF THE REPRESENTATION OF THE PETITIONER DT. 12.11.04.

EXT.P4:- COPY OF THE LETTER NO.KWA/ce/nr/e2/7456/05 dt. 1.6.05.

/ TRUE COPY/

P.A. TO JUDGE

tss

V. GIRI ,J.

WP(C).NO.18080 of 2006

Dated this the 15th day of October, 2007

JUDGMENT

The petitioner, while working as an Assistant Engineer in the Kerala State Electricity Board, was advised for appointment to the post of Assistant Engineer in the Water Authority. Thereupon he joined the services of the Water Authority on 1.4.1996. The petitioner claims that by Ext.P2 order passed by the Water Authority, persons who were employed in the Government/Autonomous Bodies prior to their joining service of the Water Authority are entitled to protection for their pay last drawn in the Government/Autonomous Bodies, as the case may be. This was made applicable to the persons who entered services of the Water Authority between 1.4.1984 and 13.8.1998. In the counter affidavit filed by the respondent, it is noted that the petitioner entered services of the Water Authority on 1.4.1996 and the resignation tendered by him in the Kerala State Electricity Board makes him ineligible for any protection as stipulated in Ext.P2 order. Since his pay in the post of Assistant Engineer in the Water Authority was fixed at the minimum scale of pay without protecting the pay which he was drawing in the KSEB, he filed Ext.P3 representation before the Chief Engineer, Northern

Region of the Kerala Water Authority. Apparently, Ext.P4, inter-departmental communication reveals that the petitioner's claim was not being considered favourably. It is therefore that he filed this writ petition.

2. I heard the learned counsel for the petitioner and the learned standing counsel for the Water Authority.

3. No statutory rules, by which the petitioner's pay which he was drawing in the KSEB, could be protected on his appointment to the Water Authority is brought to my notice. But Ext.P2 order shows that service in the Government/Autonomous Bodies were being taken into account for the purpose of fixing the pay on entering into the services of the Water Authority. If that be so, the petitioner's claim ought to be considered in the light of Ext.P2.

4. In the circumstances, the writ petition is disposed of directing the Chief Engineer to forward Ext.P3 to the Managing Director within a period of one month from the date of receipt of a copy of this judgment. The Managing Director of the Water Authority shall consider the petitioner's claim raised in Ext.P3 in the light of Ext.P2 and take a decision within a period of two months thereafter.

V. GIRI, JUDGE

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